

DEPARTMENT OF STATE REVENUE

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**LETTER OF FINDINGS NUMBER: 97-0509 IND
Individual Income Tax
For The Period: 1994**

NOTICE: Under IC 422-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Civil penalty - underpayment of quarterly estimated income tax.

Authority: IC 6-3-4-4; IC 6-8.1-10-2-2(b)

The taxpayer protests the imposition of the underpayment penalty.

STATEMENT OF FACTS

Taxpayer is an Indiana resident who has filed several Indiana returns.

ISSUE

I. Civil penalty - underpayment of quarterly estimated income tax.

DISCUSSION

The taxpayer protests the imposition of the civil penalty for underpayment of estimated tax. In support of its protest, the taxpayer states he had no income and performed project type work. A copy of an "associate agreement" between the taxpayer and his employer dated and signed April 20, 1994 states "Associate will work (as work exists) approximately 40 hours per week at A starting on or before April 20, 1994.

At hearing the taxpayer was informed that estimated tax should have been paid quarterly for income where no tax was withheld. Taxpayer stated he had severance pay and unemployment income in 1993 and may meet the exception.

Taxpayer states he made quarterly estimated payments in 1995.

A review of the 1993 tax return indicates a total tax due of \$3,088.00. The 1994 return shows a tax due of \$2,842.00 therefore the taxpayer does not meet the exception.

IC 6-3-4-4(b) states:

In addition to the requirements in Section 6015(a) of the Internal Revenue Code, every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonable be expected to be less than one hundred dollars (\$100.00). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Service Code, there shall be added to the tax a penalty in an amount prescribed by 10 6-8.1-10-2-2(b).

Page 22, Line 31 of the income tax booklet is also clear.

FINDINGS

The taxpayer's protest is denied. The penalty is appropriate as no estimated tax was paid.